



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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W.P(MD)No.1038 of 2021

R.Balakrishnan

...Petitioner

Vs

The Sub Registrar,
Office of the Sub - Registrar,
Srivilliputhur Town,
Virudhunagar District.

... Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned refusal check slip No.RFL/Srivilliputtur/16/2020 dated 31.12.2020 on the file of the respondent herein and to quash the same as arbitrary and illegal and consequently direct the respondent herein to accept and register the settlement deed of the petitioner herein dated 31.12.2020.

For Petitioner

: Mr.T.Lajapathi Roy for
Mr.M.Thirunavukkarasu

For respondent

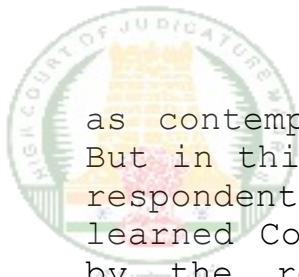
: Mr.K.Sathya Singh,
Special Government Pleader

ORDER

The case of the petitioner herein is that when he approached the respondent for registering his settlement deed 31.12.2020 in favour of his son, it was refused to be registered by the respondent stating that the earlier settlement deed, which had been executed in favour of Balakrishnan, on 26.09.2003 was subsequently cancelled by document No.4366 of 2003 in the year 2003 itself and in view of the cancellation of the settlement deed earlier, it is not open to the petitioner again execute a settlement deed, as he has no right over the property, in the first place.

2.Challenging the order passed by the respondent, the petitioner is before this Court.

3.Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioner would submit that whenever a document is submitted for registration, it is incumbent on the authority to conduct enquiry



as contemplated under Section 34 of the Registration Act, 1908. But in this case, without conducting any semblance of enquiry, the respondent has refused to register the document. According to the learned Counsel for the petitioner, had an enquiry been conducted by the respondent in terms of Section 34 of the Act, the petitioner could have approached the authority with explanation as to the nature of the transaction and whether the cancellation of the earlier settlement deed was valid or not?. However, the respondent has straightaway refused to register the document, which action of the respondent is contrary to rule position.

4.Mr.K.Sathiya Singh, learned Special Government Pleader appearing for the respondent would submit that as far as the legal position is concerned, he is in agreement with the submission made by the learned Counsel appearing for the petitioner and therefore, he would request this Court to direct the respondent to conduct an enquiry as envisaged in Section 34 of the Registration Act.

5.In consideration of the submission made on either side and also in consideration of Section 34 of the Registration Act, the impugned refusal check slip dated 31.12.2020 issued by the respondent is hereby set aside and the matter is remanded back to the respondent to conduct an enquiry as contemplated under Section 34 of the Registration Act and to pass appropriate orders by affording opportunity of hearing to the petitioner and any of the persons legitimately concerned with the transactions, within a period of four weeks from the date of receipt of a copy of this order.

6.The writ petition is allowed on the above terms. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

To
The Sub Registrar,
Office of the Sub - Registrar,
Srivilliputhur Town,
Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



W.P(MD)No.1038 of 2021

+1 CC to MR.M.THIRUNAVUKKARASU, Advocate (SR-8489[F] dated 03/03/2021)

+1 CC to SPL GP (SR-8765[F] dated 04/03/2021)

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